

IN RE: Daniel J. Dillon)
Dist. 4, Map 147, Control Map 147, Parcel 1.22,) Giles County
S.I. 000)
Residential Property)
Tax Year 2006)

The subject property is presently valued as follows:

| <u>LAND VALUE</u> | <u>IMPROVEMENT VALUE</u> | <u>TOTAL VALUE</u> | <u>ASSESSMENT</u> |
|-------------------|--------------------------|--------------------|-------------------|
| \$10,000 | \$30,800 | \$40,800 | \$10,200 |

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on October 10, 2006 in Columbia, Tennessee. In attendance at the hearing were Daniel J. Dillon, the appellant, Terry K. Moore, Giles County Property Assessor Steve McGill, Wayne Stafford and George Hoch.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a five acre tract located at 1045 Dillon Lane in Goodspring, Tennessee. The primary improvements on subject property include a mobile home, shop building and utility building.

The taxpayer contended that subject property should be valued at approximately \$25,000. In support of this position, the taxpayer argued that subject property experiences a diminution in value due to the lack of a permanent water source and flooding which can render subject property inaccessible from a public road.¹ In addition, the taxpayer asserted that the current appraisal of subject property significantly exceeds his historical costs of approximately \$23,117. Moreover, the taxpayer maintained that his appraisal increased excessively. Furthermore, the taxpayer testified that various improvements are actually older than indicated on the property record card. Finally, the taxpayer accused Mr. McGill of retaliating against him for certain “letters to the editor” he wrote in 2005.

The assessor contended that subject property should be valued at \$56,673. In support of this position, the analysis of staff appraiser Wayne Stafford was introduced into evidence. With respect to subject land, Mr. Stafford introduced numerous vacant land sales. Mr. Stafford testified that those sales were the basis for the \$15,950 appraisal of other five acre

¹ The taxpayer obtains water from another landowner's property located approximately 4,500 feet away pursuant to a non-transferable agreement.

tracts in the immediate area. Mr. Stafford recommended that subject land be appraised at \$15,950 like other five acre tracts in the area.

With respect to subject improvements, Messrs. Stafford and Hoch testified how the various rates and multipliers were derived for the mass reappraisal. Mr. Stafford recommended utilizing the actual ages of the various improvements which results in an improvement value of \$40,723.²

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$40,800 based upon the presumption of correctness attaching to the decision of the Giles County Board of Equalization.

Since the taxpayer is appealing from the determination of the Giles County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the fair market value of subject property as of January 1, 2006 constitutes the relevant issue. The administrative judge finds that the Assessment Appeals Commission has repeatedly rejected arguments based upon the amount by which an appraisal has increased as a consequence of reappraisal. For example, the Commission rejected such an argument in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) reasoning in pertinent part as follows:

The rate of increase in the assessment of the subject property since the last reappraisal or even last year may be alarming but is not evidence that the value is wrong. It is conceivable that values may change dramatically for some properties, even over so short of time as a year. . .

The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. . . .

Final Decision and Order at 2.

The administrative judge finds merely reciting factors that could cause a diminution in value does not establish the current appraisal exceeds market value. The administrative judge finds the Assessment Appeals Commission has ruled on numerous occasions that one must *quantify* the loss in value one contends has not been adequately considered. See, e.g.,

² The primary reason the value of the improvements would increase is because the appraisal of the mobile home increases from \$15,662 to \$26,898 if the age changes from 1987 to 1998.

Fred & Ann Ruth Honeycutt (Carter Co., Tax Year 1995) wherein the Assessment Appeals Commission ruled that the taxpayer introduced insufficient evidence to quantify the loss in value from the stigma associated with a gasoline spill. The Commission stated in pertinent part as follows:

The assessor conceded that the gasoline spill affected the value of the property, but he asserted that his valuation already reflects a deduction of 15% for the effects of the spill. . . . The administrative judge rejected Mr. Honeycutt's claim for an additional reduction in the taxable value, noting that he had not produced evidence by which to quantify the effect of the "stigma." The Commission finds itself in the same position. . . . Conceding that the marketability of a property may be affected by contamination of a neighboring property, we must have proof that allows us to quantify the loss in value, such as sales of comparable properties. . . . Absent this proof here we must accept as sufficient, the assessor's attempts to reflect environmental condition in the present value of the property.

Final Decision and Order at 1-2. Similarly, in *Kenneth R. and Rebecca L. Adams* (Shelby Co., Tax Year 1998) the Commission ruled in relevant part as follows:

The taxpayer also claimed that the land value set by the assessing authorities. . . was too high. In support of that position, she claimed that. . . the use of surrounding property detracted from the value of their property. . . . As to the assertion the use of properties has a detrimental effect on the value of the subject property, that assertion, without some valid method of quantifying the same, is meaningless.

Final Decision and Order at 2.

The administrative judge finds the fact subject property presumably experiences a loss in value due to the lack of a permanent water source and flooding has been recognized by valuing subject acreage at a significantly lower value than similar tracts in the immediate area. The administrative judge finds Mr. Stafford's unrefuted analysis established that comparable sales normally support a value of almost \$16,000 for similar size tracts. The administrative judge finds that retaining the current land appraisal of \$10,000 more than adequately accounts for any diminution in value.

The administrative judge finds that the taxpayer's historical costs lack probative value for at least three reasons. First, Mr. Dillon attributed no value whatsoever to his own labor. The administrative judge finds such a situation analogous to the homeowner who functions as his or her own general contractor and attributes no market value to the savings he or she enjoys. Second, Mr. Dillon did not trend his costs to January 1, 2006 to account for the increased costs of materials. Third, although Mr. Dillon may have been able to secure various materials for free, the market would not value those materials at \$0 as he is effectively asserting.

The administrative judge finds the taxpayer introduced insufficient evidence to establish that he was somehow the victim of retaliation. The administrative judge finds the preponderance of the evidence supports the conclusion that, if anything, subject property has been appraised at the lower end of market value.

The administrative judge finds that just as the taxpayer has the burden of proof when seeking a reduction in value, the assessor has the same burden when seeking an increased appraisal. Respectfully, the administrative judge finds that the proof does not support an increased appraisal for two reasons. First, subject property is clearly inferior to most, if not all, of the comparable sales because of the water and flooding problems previously discussed. The administrative judge finds subject property should be appraised at less than other five acre tracts that do not suffer from these deficiencies. Second, the county board's decision to value the mobile home at \$15,662 appears reasonable given the fact Mr. Dillon purchased it from a dealer for \$15,053.

Based upon the foregoing, the administrative judge finds that the \$40,800 appraisal established by the Giles County Board of Equalization should be affirmed based upon a presumption of correctness. However, the administrative judge finds that the improvement value of \$30,800 should be recalculated as follows:

| | <u>Unit Price (\$)</u> | <u>Units</u> | <u>EYB</u> | <u>PCT Cond.</u> | <u>DEPR. Value</u> |
|------------------|------------------------|--------------|------------|----------------------|------------------------|
| F. Shop | 13 | 960 | 1992 | 79 | 9,859 |
| Utility Building | 300 | 1 | -- | -- | 300 |
| MH4 | 28 | 1,216 | 1987 | 46 | 15,662 |
| OPU | 11 | 64 | 2002 | 95.5 | 672 |
| OPU | 11 | 96 | 2002 | 95.5 | 1,008 |
| MH Add. | 25 | 192 | 1996 | 55 | 2,640 |
| WD Deck | 8 | 100 | 2002 | 85 | 680 |
| | | | | | <u>30,821</u> |

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2006:

| <u>LAND VALUE</u> | <u>IMPROVEMENT VALUE</u> | <u>TOTAL VALUE</u> | <u>ASSESSMENT</u> |
|-------------------|--------------------------|--------------------|-------------------|
| \$10,000 | \$30,800 | \$40,800 | \$10,200 |

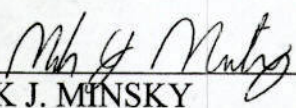
It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 12th day of October, 2006.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Daniel J. Dillon
Steve McGill, Assessor of Property